IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Vijay Lal & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 717/2004
for quashing the FIR No.97 dated 13-5-2004
of Police Station, Phalodi, district Jodhpur.
...

Date of Order: August 07, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. S.D. Vyas, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Roshan Lal, for the non-petitioner No.2.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioners seek quashing of FIR No. 97 dated 13-5-2004 of Police Station, Phalodi, district Jodhpur, for the offences under Sections 454 and 380 IPC

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioners that the petitioner No. 1 Vijay Lal purchased the property in dispute by a registered sale deed and, therefore, neither the offence of house breaking nor of theft is made out and the FIR deserves to be quashed. Learned counsel for the

complainant/non-petitioner No.2 submits that the complainant is a tenant in the disputed premises since 1959 and has been continuously paying the rent to the landlord Shri Hemraj Gulecha since 1959. He paid the rent to the landlord viz. Shri Hem Chand Gullecha upto the year 1999 and for the period beyond 1999, the rent was remitted to the landlord by money order. He further submits that the complainant is possessing various receipts for the rent paid by him. It has further been contended by the learned counsel for the complainant that his tenancy has not been terminated and the electricity connection etc. are in the name of the complainant.

I have given my thoughtful consideration to the rival submissions made by the learned counsel for the parties.

It is settled law that if the FIR does not disclose commission of cognizable offence on its bare reading then no useful purpose would be served in allowing the criminal proceedings to continue. However, in the instant case, the FIR discloses commission of the offence. In State of Haryana & ors. Vs. Bhajan Lal & ors., 1992 (Suppl) 1 SCC 335, the Hon'ble Supreme Court held that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare case. The extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.

The Court will not be justified in embarking upon an enqujiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint. The Apex Court further held that the investigation of an offence is the field exclusively reserved for the police officers whose powers in that field are unfettered so long as the power to investigate into the cognizable offence is legitimately exercise in strict compliance with the provisions falling under Chapter XII of the Code and the Courts are not justified in obliterating the track of investigation when the investigating agencies are well within their legal bounds.

In Union of India & ors. Vs. B.R. Bajaj & ors., (1994) 2 SCC 277, the Hon'ble Apex Court held that the inherent power under Section 482 of the Code cannot be exercise to quash the FIR when the allegations in FIR discloses commission of a cognizable offence because several aspect of the FIR still to be investigated by the police. At that stage, the High Court cannot go into the question whether offences alleged in the FIR are made out or not. The statutory power of police to investigate cannot be interfered with in exercise of inherent power by the High Court.

In the instant case, prima facie the FIR discloses commission of the cognizable offnece and, therefore, keeping in view the decisions of the Hon'ble Supreme Court in State of

Haryana & ors. Vs. Bhajan Lal & ors. (supra) and Union of India & ors. Vs. B.R. Bajaj & ors. (supra), the instant criminal miscellaneous petition deserves to be dismissed.

The criminal miscellaneous petition is dismissed. The ad interim stay order dated 27-8-2004 is vacated and the stay petition stands dismissed.

(H.R. PANWAR), J.

mcs